

1. A Civil - R.M Court - Claim for wrongful dismissal - Damages - Quantum  
whether award inordinately high - whether wrongfully dismissed  
whether award punitive - Award at aside. - lower court -  
JAMAICA (Mentioned in the)

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S CIVIL APPEAL NO: 20/88

BEFORE: The Hon. Mr. Justice Rowe, P.  
The Hon. Mr. Justice Campbell, J.A.  
The Hon. Miss Justice Morgan, J.A.

BETWEEN

THE MANAGER  
WINDMILL GARMENT  
MANUFACTURING LTD

APPELLANT

AND

VIOLET RICHARDS

RESPONDENT

Mr. Allen Wood & Mr. Donald Gittens for appellant

Respondent. unrepresented

21st June, 1989

CAMPBELL, J.A.

The respondent was a senior supervisor in the employment of the appellant and had been so employed for upwards of six years. She was accused of stealing 'T' shirts from the factory on the 19th of February, 1988. The accusation of stealing was based on a report made by one Gedroy Wilson who said he saw the respondent removing 'T' shirts from a box after they had been checked but prior to the sealing of the box. Mr. Wilson left in search of his boss to make the report and he returned within a minute. A search was conducted in respect of the box where the stolen articles were supposed to have been secreted. Nothing was found. Wilson never confronted the respondent to identify

her as the person whom he saw taking the 'T' shirts from the box prior to sealing. He admitted in evidence that on the date he was seeing her for the first time. In these circumstances it is clear that he could have been mistaken as to her identity.

The defence of the appellant was that the respondent had been dismissed for just cause. In the light of the evidence given and the reasoning of the learned Resident Magistrate, Mr. Wood for the appellant did not consider it desirable or proper for him to proceed with the appeal based on any error on the part of the learned Resident Magistrate in concluding in favour of the respondent that she had been wrongfully dismissed. We entirely agree with Mr. Wood that on the basis of the evidence adduced and the reasoning of the learned Resident Magistrate, it would have been impossible for him to have succeeded in satisfying us that the appellant had discharged the burden which fell on them to establish that the dismissal was for just cause.

Mr. Wood before us argued that the quantum of damage awarded by the learned Resident Magistrate was inordinately high and flowed from the application of the wrong principle, viz, that the learned Resident Magistrate wrongly considered that he was dealing with general damages not related to wrongful dismissal and also that insofar as he was considering or could have been considering wrongful dismissal, he felt that the damage should be somehow punitive in addition to being compensatory, in that it should provide some form of solace for injured feelings and the fact that the respondent would find it difficult to secure alternative employment having regard to the circumstances under which she lost her former

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The appellant will have its costs in this court  
assessed in the sum of \$200.00